

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO MORELL MITCHELL,
Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,
Defendant.

Case No. 11-11438
Honorable Patrick J. Duggan

OPINION AND ORDER

On April 5, 2011, Plaintiff filed this lawsuit challenging a final decision of the Commissioner denying Plaintiff's application for social security benefits. On April 5, 2011, this Court referred the lawsuit to Magistrate Judge Mark A. Randon for all pretrial matters proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. 3.) The parties subsequently filed cross-motions for summary judgment. On May 29, 2012, Magistrate Judge Randon issued his R&R recommending that this Court grant Plaintiff's motion, deny Defendant's motion, and remand the matter pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with the R&R. (Doc. 20.)

In his R&R, Magistrate Judge Randon concludes that the Administrative Law Judge erred in that he failed to conduct a sufficient analysis to determine whether Plaintiff was disabled under a Listed Impairment. (*Id.* at 11-13.) At the conclusion of the R&R,

Magistrate Judge Randon advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at 14.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*, citing *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Randon. The Court therefore adopts Magistrate Judge Randon’s May 29, 2012 Report and Recommendation.

Accordingly,

IT IS ORDERED, that Plaintiff’s motion for summary judgment is **GRANTED**;

IT IS FURTHER ORDERED, that Defendant’s motion for summary judgment is **DENIED**;

IT IS FURTHER ORDERED, that this matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with the R&R.

Dated: July 9, 2012

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Steven V. Harthorn, Esq.
AUSA Judith E. Levy
Magistrate Judge Mark A. Randon